IN THE UNITED STATES PATENT AND TRADEMARK OFFICE:
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPLICANTS:	Schneur et al.	CONF. NO.:	1565	
APPL. NO.:	10/081,411	ART UNIT:	3627	
FILING DATE:	February 20, 2002	EXAMINER:	M. Shaawat	
TITLE:	Auction management with business volume discount			

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REPLY BRIEF

STATUS OF CLAIMS

Claims 1–20 remain pending in this application, have been rejected, and are the subject of this appeal.

GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

This reply brief is submitted pursuant to 37 C.F.R. § 41.41 in reply to the Office's

Answer of October 15, 2009 (the "Answer"). In the Answer, the Office withdrew the rejection

of claims 8–14, 19 and 20 under 35 U.S.C. § 101. This brief addresses the remaining rejection

maintained by the Office against the patentability of Appellant's claims:

1. The allegation that pending claims 1–20 are anticipated by U.S. Patent Appl. Publ. No.

2003/0004850 (hereinafter "Li").

For the reasons that follow, we respectfully submit that claims 1–20 are patentable over

Li, which fails to teach or suggest all of the limitations of independent claims 1 and 8 or the

claims that depend therefrom.

ARGUMENT

I.   *Rejection under 35 U.S.C. § 102(e) over U.S. Pat. Appl. Publ. No. 2003/0004850*

    A.   *Claims 1–20*

Applicant's Second Appeal Brief argued that Li failed to teach or suggest "determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount," as is required by independent claim 1 and independent claim 8.

In particular, the Second Appeal Brief noted that: (1) the Li reference and this application are commonly owned by the real party in interest in this appeal, (2) nothing in Li teaches or suggests (a) the determination of an optimal award schedule utilizing (b) the explicit offer of a business volume discount,[1] and (3) one of ordinary skill would note that the portions of the present application discussing (a) utilizing (b) are absent from the Li reference. Moreover, our Second Appeal Brief reviewed each and every portion of Li cited by the Office in support of this rejection and established that those portions fail to discuss (a) utilizing (b).

In response, the Answer simply repeats the argument from the final rejection, citing the same portions of Li that we reviewed and distinguished in the Second Appeal Brief. For reference, we quote the entirety of the Office's rebuttal to our three pages of briefing explaining why the cited portions of Li do not anticipate the pending claims:

> Li teaches determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount (see at least Para 0114-0117, 0124-0128, 0096, 0097, 0011-0014 and 0006-0007, and claims 1, 7, 27, 33, 38 40, 42).

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[1]   To facilitate further discussion, these reference letters are used in further discussion of Li.

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This reply is conclusory and should be given no weight by the Board. It cites the same portions of Li that are distinguished in our Second Appeal Brief and it in no way addresses any of our arguments distinguishing those same portions of Li.

The only new portions of Li identified in the Office's Answer are claims 1 and 7. As we stated in our Second Appeal Brief, and as repeated above, the limitation "determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount," present in independent claims 1 and 8 requires: (a) the determination of an optimal award schedule utilizing (b) the explicit offer of a business volume discount. Claim 1 of Li recites the determination of an optimal award schedule but does not discuss utilizing a business volume discount in that determination, i.e., (a) but not (b). Claim 7 of Li concerns business volume discounts in the context of bids, not as used in the determination of an optimal award schedule, i.e., (b) but not (a).

We respectfully renew our submission that Li does not disclose or suggest "determining by a processor an optimal award schedule comprising an optimal combination of suppliers and a list of items to be ordered from each supplier to at least partially satisfy the purchase requisition utilizing the explicit offer of a business volume discount." For at least this reason, independent claims 1 and 8 are patentable over Li, and the claims that depend therefrom are likewise patentable because they depend on a patentable base claim, and may also have additional patentable features.

CONCLUSION

For all of the foregoing reasons, we maintain that the Office's rejection of claims 1–20 was erroneous, and reversal thereof is respectfully requested.

Respectfully submitted,

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